



JACK WILLIAMS
GOVERNOR

OFFICE OF
State Land Department
STATE OF ARIZONA
Phoenix, Arizona 85007
July 1, 1974

ANDREW L. BETTWEY
STATE LAND COMMISSIONER

Re: Arizona State Land Department Lease No. 878

To: Bagdad Copper Corporation

Lessee of Record

Dear Lessee:

Attached please find an order to show cause requiring you to appear before the Arizona State Land Department to show cause why the above-numbered lease should not be cancelled.

The order to show cause is brought about by and is the result of the recent Arizona Supreme Court Decision in the case of Farmer's Investment Company v. Pima Mining Company and the State Land Department (see copy attached to enclosed order).

That decision made certain declarations concerning State Land Department leases for water, and it found that commercial leasing of water is contrary to law. It is this Department's opinion that the Court stated that water was a "natural product" of state lands and that inferentially as a "natural product", water must be sold at public auction to the highest and best bidder.

Applications to purchase water as a "natural product" of State land will be processed by the Department following the same procedure as is used for the sale of land and following the same criteria demanded of a trustee.

It becomes necessary to also advise that the removal of water from your leased premises, above referred to, from and after the date provided to show cause in the enclosed order shall be deemed in trespass and unlawful for all purposes, unless cause is shown why said lease should not be cancelled until a sale of said water has been effected and unless an application to purchase said water has been duly filed with the Arizona State Land Department.

By the preceding procedure every effort is being made not to interrupt your operation and to comply with the mandates of the subject Supreme Court decision.

Sincerely,

Andrew L. Bettwy
Andrew L. Bettwy

BEFORE THE STATE LAND COMMISSIONER
ARIZONA STATE LAND DEPARTMENT

IN THE MATTER OF ARIZONA)
STATE LAND DEPARTMENT)
COMMERCIAL LEASE NO.)
878)
BAGDAD COPPER CORPORATION)
AS LESSEE)
_____)

ORDER TO SHOW CAUSE WHY COMMERCIAL
LEASE NO. 878 SHOULD NOT BE
CANCELLED

Pursuant to A.R.S. § 37-289, the Arizona State Land Commissioner and the Arizona State Land Department,

1. having received, reviewed, and fully considered the decision of the Arizona Supreme Court in the case of Farmers Investment Company v. Pima Mining Company, copy attached (No. 11439) and it being the opinion of the Arizona State Land Department and the State Land Commissioner that said decision provides that a commercial lease (or any form of lease) is not the proper contract method for the sale of water from trust and state lands and further, inferentially, that sale of such waters and other natural products must be by public auction, and
2. having further reviewed records and information of the Department which reflect the above numbered lease to be a Commercial lease for extraction of water and in affect the sale thereof,

HEREBY ORDER the above named lessee to appear before the State Land Commissioner at 8:00 o'clock A. M. on the 7th day of August, 19 74 at Room 411, Arizona State Office Building, Phoenix, Arizona to show cause why Commercial Lease No. 378 for extraction of water should not be cancelled on the grounds that such leasing for the extraction of water is contrary to law or why such lease should not be cancelled until a sale of said water has been effected, and it is

FURTHER ORDERED, that all water withdrawn from the leased premises from the date of this order continue to be metered or otherwise specifically accounted for in gallonage, and the monthly interim charge therefor from said date until said lease is cancelled or the sale of said water to the highest and best bidder is effected according to law, whichever occurs the longer period of time after the date of this order, shall be at the rate bid by the highest and best bidder at such sale or 10¢ per 1,000 gallons whichever is the lesser, and the Department reserves the right to make monthly charges during said interim as the best interests of the related trust to it appear.

This Order is subject to appeal as in such cases is provided by the laws of the State of Arizona.

GIVEN under my hand and the Official Seal of the State Land Department this 1st day of July, 19 74.

ARIZONA STATE LAND DEPARTMENT


STATE LAND COMMISSIONER

41-74
CERT. NO. 570755-